

substantially over the top of the elevator lift apparatus as the elevator lift apparatus returns to the its first position to then receive another good to be moved to the second position.

35. (Ameded) A method for packaging goods in an open-bottomed container, wherein the open-bottomed container is an open-bottomed cardboard box with four upper flaps, comprising:
- (a) unfolding the open-bottomed cardboard box;
 - (b) holding the unfolded open-bottomed cardboard box above an elevator lift apparatus;
 - (c) activating the elevator lift apparatus to raise an at least one good into the open-bottomed cardboard box, the elevator lift apparatus moving from a first position to a second position;
 - (d) retracting the elevator lift apparatus;
 - (e) supporting the at least one good in a position substantially over the top of the elevator lift apparatus while the elevator lift apparatus returns to the first position to then receive at least another good to be moved to the second position; and
 - (f) folding the four upper flaps of the open-bottomed cardboard box.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "**Marked-up Version Showing Changes.**"

REMARKS

Claims 1-9, 35-36, and 38-40 are pending in this case.

Claims 1-5, 35-36, and 37-40 [sic] were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent 5,115,625 to Barbulesco et al. ("Barbulesco") in view of U.S. Patent 5,022,214 to Kim ("Kim"). Furthermore, claims 6-9 were rejected under 35 U.S.C. § 103(a) as being obvious over Barbulesco in view of Kim and in further view of U.S. Patent 4,550,549 to Reinfeld et al. ("Reinfeld").

The Examiner stated that claim 37 was rejected in paragraph four of the Office Action. Claim 37 was previously withdrawn from consideration and will therefore not be mentioned below.

Reconsideration of the pending claims is respectfully requested in view of the following comments.

I. Amended Claims 1-5, 35-36, and 38-40 Are Not Obvious Over Barbulesco In View of Kim.

The Applicant respectfully submits that amended claims 1-5, 35-36, and 38-40 are not obvious under 35 U.S.C. § 103(a) over Barbulesco in view of Kim. Barbulesco and Kim, alone or in combination, fail to teach or suggest, or provide any motivation to create the claimed invention. Furthermore, Kim teaches away from the invention as claimed.

Because claims 2-5, 36, and 39-40 are dependant claims, and each of the dependent claims depend directly or indirectly on one of the independent claims, the allowability of the dependent claims rests upon on the allowability of the independent claim from which it depends. Only independent claims 1 and 35, therefore, will be discussed below.

A. Claims 1 and 35 are not Obvious in View of Barbulesco in View of Kim.

Barbulesco teaches a method and apparatus for packaging a product in a box. Barbulesco raises the product into the open bottom of the box utilizing an elevator 30 with a plate attached on the top. Then, with the elevator still in its upright position, a push flite 90 attached to a push flite chain 91 activates and pushes the box, and the product contained therein, onto a curved plate 43 and a number of fixed supports 40a and 40b. The elevator of Barbulesco must remain in the upper position until the push flite 90 moves the box off of the elevator and onto the fixed supports 40a and 40b. The elevator must remain in the up position until the box and the product are completely pushed off. None of the supports support the product and the box while the elevator returns to collect more objects. The Examiner recognizes Barbulesco's failings by stating that it does "not disclose supporting the at least one good over the top of the elevator as the elevator returns to the first (lower) position." July 15, 2002 Office Action, pg. 3. The Examiner therefore relies on Kim to show a support mechanism that supports the product and the box as the elevator is "retracted to the first position."

Kim teaches a box loading apparatus wherein the product A is moved along a conveyor 5 and received by an elevator 4. The elevator 4 and push plate 10 then lift the product A into a box B. Box B and product A are then held by supports 21 and 21' while the push plate 10 is

retracted. The flaps of the box are then folded and the push plate 10 returns to receive the box B with product A therein, returning the box B and product A to the conveyor 5. The conveyor 5 remains in a stop position while box B is folded, delivers no new goods to the elevator 4 and push plate 10.

In contrast to the combination of Barbulesco and Kim, claim 1 requires an apparatus that includes a support mechanism that supports the at least one good “substantially over the top of the elevator lift apparatus as the elevator lift apparatus returns to the its first position to then receive another good to be moved to the second position.” Furthermore, claim 35 claims a method that requires “supporting the at least one good in a position substantially over the top of the elevator lift apparatus while the elevator lift apparatus returns to the first position to then receive another good to be moved to the second position.” The elevator lift apparatus lifts the goods into the box. The support mechanism supports the goods in a position substantially over the top of the elevator lift apparatus as the elevator lift apparatus returns to its first position to receive another good. Because the support mechanism supports the goods substantially over the top of the elevator lift apparatus, and inside of the box, the elevator lift apparatus can then immediately return to receive more goods. Kim does not teach or suggest loading a second group of product A onto the elevator 4 or lift plate 10 while box B with product A are being supported and the flaps of box B have been folded. Kim and Barbulesco, alone or in combination, therefore do not teach, disclose, or suggest the claimed invention.

B. Kim Teaches Away From the Claimed Invention.

In fact, Kim teaches away from the claimed invention by requiring that the lift plate 10 receive the product A and box B after the box is folded, to return them both to height R and the conveyor 5. This configuration and process teaches away from the lift plate and elevator being able to return to “then receive another good to be moved to the second position.” Kim requires that conveyor 5, and all of the product along the box filling line, be stopped while the flaps for the one box are being folded; the elevator 4 can then return to receive the box B, with folded flaps and product, and return it to the conveyor 5 so it can continue along the production line. Only then does elevator 4 and lift plate 10 receive a second group of product.

Thus, claims 1 and 35 of the present invention claim subject matter not disclosed, taught, or suggested by Barbulesco in view of Kim. Furthermore, Barbulesco nor Kim, alone or in

combination, teach or suggest or provide any motivation to make the invention as claimed. Finally, Kim teaches away from the present invention. Therefore claims 1 and 35 are not made obvious in view of Barbulesco in view of Kim. Reconsideration and withdrawal of the pending rejection is respectfully requested.

II. Amended Claims 6-9 Are Not Obvious Over Barbulesco In View of Kim and in Further View of Reinfeld.


Claims 6-9 are each dependent claims. In addition, each of claims 6-9 are dependent directly or indirectly on claim 1, further defining the patentable subject matter contained therein. The allowability of dependent claims 6-9 therefore rest upon on the allowability of independent claim 1. The arguments stated above are therefore incorporated by reference and it is believed that claims 6-9 are allowable.

CONCLUSION

In view of the preceding remarks, Applicant respectfully urges that the Examiner's rejections be reconsidered and withdrawn, and that the pending claims be allowed. However, if the Examiner believes that any issues remain unresolved, the Examiner is invited to telephone the undersigned to expedite allowance.

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**MARKED-UP VERSION SHOWING CHANGES
IN THE CLAIMS**

1. (Amended) An apparatus for packaging goods in a box, comprising:
 - (a) a box erecting apparatus for erecting a box to receive at least one good;
 - (b) an elevator lift apparatus operatively connected below the box erecting apparatus, the elevator apparatus having a first position and a second position wherein the elevator lifts the at least one good from the first position to the second position; and
 - (c) a support mechanism operably positioned relative to the box erecting apparatus wherein the support mechanism receives the at least one good after the elevator lifts the at least one good to the second position, the support mechanism supporting the at least one good substantially over the top of the elevator lift apparatus as the elevator lift apparatus returns to the its first position to then receive another good to be moved to the second position.

35. (Amended) A method for packaging goods in an open-bottomed container, wherein the open-bottomed container is an open-bottomed cardboard box with four upper flaps, comprising:
 - (a) unfolding the open-bottomed cardboard box;
 - (b) holding the unfolded open-bottomed cardboard box above an elevator lift apparatus;
 - (c) activating the elevator lift apparatus to raise an at least one good into the open-bottomed cardboard box, the elevator lift apparatus moving from a first position to a second position;
 - (d) retracting the elevator lift apparatus;
 - (e) supporting the at least one good in a position substantially over the top of the elevator lift apparatus while the elevator lift apparatus returns to the first position to then receive at least another good to be moved to the second position; and
 - (f) folding the four upper flaps of the open-bottomed cardboard box.